

Executive Summary – Enforcement Matter – Case No. 45280
DRIFTWOOD EQUITIES, LTD.
RN101608255
Docket No. 2012-2159-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Salt Lick WWTP, located approximately 300 feet northwest of the intersection of Farm-to-Market Road 1826 and Farm-to-Market Road 967 and 1,400 feet north of Camp Ben McCulloch, Hays County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: February 22, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$7,901

Amount Deferred for Expedited Settlement: \$1,580

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$6,321

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 45280
DRIFTWOOD EQUITIES, LTD.
RN101608255
Docket No. 2012-2159-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: August 8, 2012

Date(s) of NOE(s): October 18, 2012

Violation Information

1. Failed to comply with permitted effluent limits for 5-day biochemical oxygen demand and total suspended solids [Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014235001, Effluent Limitations and Monitoring Requirements A., 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a)].

2. Failed to submit noncompliance notifications for any effluent violation which deviates from the permitted effluent limitation by greater than 40% in writing to the Regional Office and the Enforcement Division within five working days of becoming aware of the noncompliance. Specifically, the noncompliance notifications for the biochemical oxygen demand (5-day) exceedances were not submitted for the April 5, 2012, April 12, 2012, June 21, 2012 and June 28, 2012 exceedances [TPDES Permit No. WQ0014235001, Monitoring Requirements No. 7.c., and 30 TEX. ADMIN. CODE § 305.125(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures:

a. By July 2, 2012:

- i. Replaced all damaged electrical components at the Facility, including blower, clarifier, control panel and pump; and
- ii. Returned to compliance with permitted effluent limits.

b. By November 1, 2012:

- i. Updated the Facility's operational guidance and conducted employee training to ensure that all reporting procedures are properly accomplished; and
- ii. Submitted the required noncompliance notifications for the April 5, 2012, April 12, 2012, June 21, 2012 and June 28, 2012 exceedances.

Executive Summary – Enforcement Matter – Case No. 45280
DRIFTWOOD EQUITIES, LTD.
RN101608255
Docket No. 2012-2159-MWD-E

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jorge Ibarra, P.E., Enforcement Division,
Enforcement Team 3, MC R-04, (817) 588-5890; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: M. Scott Roberts, President, DRIFTWOOD EQUITIES, LTD., P.O. Box
311, Driftwood, Texas 78619

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	22-Oct-2012	Screening	22-Oct-2012	EPA Due	
	PCW	25-Oct-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	DRIFTWOOD EQUITIES, LTD.		
Reg. Ent. Ref. No.	RN101608255		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	45280	No. of Violations	1
Docket No.	2012-2159-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	-10.0% Enhancement	Subtotals 2, 3, & 7	-\$100
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Notes: Reduction for High Performer classification.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$250
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$0
Approx. Cost of Compliance: \$0
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$650
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$650
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$650
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DEFERRAL	20.0% Reduction	Adjustment	-\$130
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$520
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Screening Date 22-Oct-2012

Docket No. 2012-2159-MWD-E

PCW

Respondent DRIFTWOOD EQUITIES, LTD.

Policy Revision 2 (September 2002)

Case ID No. 45280

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101608255

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance
History
Notes

Reduction for High Performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) -10%

Screening Date 22-Oct-2012
Respondent DRIFTWOOD EQUITIES, LTD.
Case ID No. 45280
Reg. Ent. Reference No. RN101608255
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.
Violation Number 1

Docket No. 2012-2159-MWD-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Rule Cite(s)

Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014235001, Effluent Limitations and Monitoring Requirements A, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)

Violation Description

Failed to comply with permitted effluent limits. See attached Effluent Limit Violation Table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

31 **Number of violation days**

mark only one
with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended for the quarter containing the month of August 2011.

Good Faith Efforts to Comply

25.0% Reduction

\$250

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes

The Respondent achieved compliance by July 2, 2012 for this violation.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$650

This violation Final Assessed Penalty (adjusted for limits) \$650

Economic Benefit Worksheet

Respondent DRIFTWOOD EQUITIES, LTD.

Case ID No. 45280

Reg. Ent. Reference No. RN101608255

Media Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for Violation No. 1 on the accompanying PCW.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	22-Oct-2012	PCW	25-Oct-2012	Screening	22-Oct-2012	EPA Due	
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RESPONDENT/FACILITY INFORMATION

Respondent	DRIFTWOOD EQUITIES, LTD.		
Reg. Ent. Ref. No.	RN101608255		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	45280	No. of Violations	3
Docket No.	2012-2159-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$10,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History -10.0% Enhancement **Subtotals 2, 3, & 7** -\$1,000

Notes Reduction for High Performer classification.

Culpability No 0.0% Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$1,749

Economic Benefit 0.0% Enhancement* **Subtotal 6** \$0

Total EB Amounts \$455
Approx. Cost of Compliance \$10,450
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$7,251

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$7,251

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$7,251

DEFERRAL 20.0% Reduction **Adjustment** -\$1,450

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY \$5,801

Screening Date 22-Oct-2012

Docket No. 2012-2159-MWD-E

PCW

Respondent DRIFTWOOD EQUITIES, LTD.

Policy Revision 3 (September 2011)

Case ID No. 45280

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101608255

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance
History
Notes

Reduction for High Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date 22-Oct-2012
Respondent DRIFTWOOD EQUITIES, LTD.
Case ID No. 45280
Reg. Ent. Reference No. RN101608255
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.
Violation Number 1

Docket No. 2012-2159-MWD-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Rule Cite(s)

Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014235001, Effluent Limitations and Monitoring Requirements A., 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)

Violation Description

Failed to comply with permitted effluent limits. See attached Effluent Limit Violation Table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

92 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,250

One quarterly event is recommended for the quarter containing the months of March, April, and May 2012.

Good Faith Efforts to Comply

25.0% Reduction

\$312

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes The Respondent achieved compliance by July 2, 2012 for this violation.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$447

Violation Final Penalty Total \$813

This violation Final Assessed Penalty (adjusted for limits) \$813

Economic Benefit Worksheet

Respondent DRIFTWOOD EQUITIES, LTD.

Case ID No. 45280

Reg. Ent. Reference No. RN101608255

Media Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	11-Aug-2011	2-Jul-2012	0.89	\$447	n/a	\$447

Notes for DELAYED costs

Estimated cost to replace all damaged electrical components at the Facility (i.e. the blower, clarifier, control panel and pump) and return to compliance with permit effluent limits. Date required is the first date of non-compliance, final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$447

Screening Date 22-Oct-2012

Docket No. 2012-2159-MWD-E

PCW

Respondent DRIFTWOOD EQUITIES, LTD.

Policy Revision 3 (September 2011)

Case ID No. 45280

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101608255

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2

Rule Cite(s)

TPDES Permit No. WQ0014235001, Effluent Limitations and Monitoring Requirements No. A., 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)

Violation Description

Failed to comply with permitted effluent limits. See attached Effluent Limit Violation Table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,750

One monthly event is recommended for the month of June 2012.

Good Faith Efforts to Comply

25.0% Reduction

\$937

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes The Respondent achieved compliance by July 2, 2012 for this violation.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$2,438

This violation Final Assessed Penalty (adjusted for limits) \$2,438

Economic Benefit Worksheet

Respondent DRIFTWOOD EQUITIES, LTD.

Case ID No. 45280

Reg. Ent. Reference No. RN101608255

Media Water Quality

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for Violation No. 1.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 22-Oct-2012
Respondent DRIFTWOOD EQUITIES, LTD.
Case ID No. 45280

Docket No. 2012-2159-MWD-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101608255

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 3

Rule Cite(s)

TPDES Permit No. WQ0014235001, Monitoring Requirements No. 7.c., and 30 Tex. Admin. Code § 305.125(1)

Violation Description

Failed to submit noncompliance notifications for any effluent violation which deviates from the permitted effluent limitation by greater than 40% in writing to the Regional Office and the Enforcement Division within five working days of becoming aware of the noncompliance. Specifically, the noncompliance notifications for the biochemical oxygen demand (5-day) exceedances were not submitted for the April 5, 2012, April 12, 2012, June 21, 2012 and June 28, 2012 exceedances.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 4

84 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$5,000

Four single events are recommended, one for each notification not submitted.

Good Faith Efforts to Comply

10.0% Reduction

\$500

	Before NOV		NOV to EDPRP/Settlement Offer
	Extraordinary	Ordinary	
			X
N/A			(mark with x)

Notes

The Respondent achieved compliance by November 1, 2012 for this violation.

Violation Subtotal \$4,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$4,000

This violation Final Assessed Penalty (adjusted for limits) \$4,000

Economic Benefit Worksheet

Respondent DRIFTWOOD EQUITIES, LTD.

Case ID No. 45280

Reg. Ent. Reference No. RN101608255

Media Water Quality

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	8-Aug-2012	1-Nov-2012	0.23	\$3	n/a	\$3
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$200	10-Apr-2012	1-Nov-2012	0.56	\$6	n/a	\$6

Notes for DELAYED costs

Estimated cost to update the Facility's operational guidance and conduct employee training to ensure that all reporting procedures are properly accomplished (\$250) and to submit the required noncompliance notifications (\$50 per notification). Dates required are the investigation date and the date the first noncompliance notification was due, and the final date is the notifications were submitted and employee training was completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$450

TOTAL

\$9

DRIFTWOOD EQUITIES, LTD.
 RN101608255, Case No. 45280, TPDES Permit No. WQ0014235001
 Docket No. 2012-2159-MWD-E

<i>EFFLUENT PARAMETER</i>				
<i>Permit Limit</i>				
	BOD5 Single Grab Concentration	BOD5 Daily Average Concentration	TSS Single Grab Concentration	TSS Daily Average Concentration
<i>Date</i>	35 mg/L	10 mg/L	60 mg/L	15 mg/L
August 11, 2011	c	c	74	c
August 25, 2011	c	13	c	26
March 29, 2012	c	15	c	c
April 5, 2012	55	c	c	c
April 12, 2012	54	c	64	c
April 26, 2012	c	38	c	41
May 10, 2012	40	c	c	c
May 31, 2012	c	18	c	17
June 21, 2012	339	c	c	c
June 28, 2012	190	137	c	21

biochemical oxygen demand (5-day) = BOD5 total suspended solids = TSS
 mg/L = milligrams per liter c = compliant



Compliance History Report

PENDING Compliance History Report for CN600861660, RN101608255, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN600861660, Driftwood Equities, Ltd.	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN101608255, SALT LICK WWTP	Classification: HIGH	Rating: 0.00
Complexity Points:	3	Repeat Violator:	NO
CH Group:	14 - Other		
Location:	LOCATED APPROX 300 FEET NW OF THE INTERX OF FM 1826 & FM 967 & 1400 FEET N OF CAMP BEN MCCULLOCH IN HAYS COUNTY, TEXAS		
TCEQ Region:	REGION 11 - AUSTIN		
ID Number(s):	WASTEWATER PERMIT WQ0014235001		
Compliance History Period:	September 01, 2007 to August 31, 2012	Rating Year: 2012	Rating Date: 09/01/2012
Date Compliance History Report Prepared:	October 22, 2012		
Agency Decision Requiring Compliance History:	Enforcement		
Component Period Selected:	October 22, 2007 to October 22, 2012		
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.			
Name:	Jorge Ibarra, P.E.	Phone	(817) 588-5890

Site and Owner/Operator History:

- | | |
|----------------------------------------------------------------------------------------------------|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3) If YES for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)? | N/A |
| 5) If YES, when did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
DRIFTWOOD EQUITIES, LTD.
RN101608255**

**§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2012-2159-MWD-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding DRIFTWOOD EQUITIES, LTD. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located approximately 300 feet northwest of the intersection of Farm-to-Market Road 1826 and Farm-to-Market Road 967 and 1,400 feet north of Camp Ben McCulloch in Hays County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 23, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seven Thousand Nine Hundred One Dollars (\$7,901) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Thousand Three Hundred Twenty-One

Dollars (\$6,321) of the administrative penalty and One Thousand Five Hundred Eighty Dollars (\$1,580) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By July 2, 2012:
 - i. Replaced all damaged electrical components at the Facility, including blower, clarifier, control panel and pump; and
 - ii. Returned to compliance with permitted effluent limits.
 - b. By November 1, 2012:
 - i. Updated the Facility's operational guidance and conducted employee training to ensure that all reporting procedures are properly accomplished; and
 - ii. Submitted the required noncompliance notifications for the April 5, 2012, April 12, 2012, June 21, 2012 and June 28, 2012 exceedances.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to comply with permitted effluent limits, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014235001, Effluent Limitations and Monitoring Requirements A., 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a), as documented during an investigation conducted on August 8, 2012 as shown in the table below:

<i>EFFLUENT PARAMETER</i>				
<i>Permit Limit</i>				
	BOD5 Single Grab Concentration	BOD5 Daily Average Concentration	TSS Single Grab Concentration	TSS Daily Average Concentration
<i>Date</i>	35 mg/L	10 mg/L	60 mg/L	15 mg/L
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biochemical oxygen demand (5-day) = BOD5 total suspended solids = TSS
mg/L = milligrams per liter c = compliant

2. Failed to submit noncompliance notifications for any effluent violation which deviates from the permitted effluent limitation by greater than 40% in writing to the Regional Office and the Enforcement Division within five working days of becoming aware of the noncompliance, in violation of TPDES Permit No. WQ0014235001, Monitoring Requirements No. 7.c., and 30 TEX. ADMIN. CODE § 305.125(1), as documented during an investigation conducted on August 8, 2012. Specifically, the noncompliance notifications for the biochemical oxygen demand (5-day) exceedances were not submitted for the April 5, 2012, April 12, 2012, June 21, 2012 and June 28, 2012 exceedances.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: DRIFTWOOD EQUITIES, LTD., Docket No. 2012-2159-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Saverin J
For the Executive Director

3/3/13
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

M. Scott Roberts
Signature

12-13-12
Date

M. SCOTT ROBERTS
Name (Printed or typed)
Authorized Representative of
DRIFTWOOD EQUITIES, LTD.

VICE PRESIDENT
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.